IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE SIDE

CRIMINAL WRIT PETITION NO.2467 OF 2005

Professor Dr.Nanda Ravindra & Anr. ...Petitioners
Vs.
The State of Maharashtra ...Respondents

Mr.Uday Warunjikar for Petitioners
Mr. S.R.Borulkar, A.P.P. for the State.

CORAM: B.H.MARLAPALLE & ROSHAN DALVI, JJ.
DATED: 18TH JANUARY, 2006

P.C.

1. Heard Mr. Warunjikar, the learned Counsel for the Petitioners and Mr. Borulkar, the learned A.P.P.

2. Subsequent to the order passed by this Court on 27th October 2005 Dilip S. Chougule, Police Inspector from Sangli Rural Police Station has filed an affidavit on or about 28th November 2005 and as per the said affidavit the statements of all, barring 3 out of the 19 names submitted by the Petitioners on 12th November 2005, have been recorded. In the rejoinder affidavit filed by the Petitioners it is now contended that the Police did not record the statement of Mr.Mohammed Iqbal Hanfi son of Mr.Jahid Mohammed Hanfi, resident of Kareli, District Narsinghpur, Madhya Pradesh, who claims to have personal knowledge regarding the death of Mayuri Jain.

3. Mr. Borulkar states that the Police had recorded the statement of Mohammed Iqbal Hanfi on 29th August 2005 and it is the part of the record submitted along with the chargesheet filed before the concerned Magistrate on 29th November 2005 against 7 accused persons. Out of these 7 accused persons, accused No.7 namely Apoorva Sagar Maharaj expired on 20th October 2005, i.e. before the charge-sheet was filed and accused No.6 Smt. Shantiben Rajkumar Jain, the mother of deceased Mayuri Jain is shown to be absconding. The latest affidavit filed by the Investigating Officer does not satisfy us regarding the statement made therein. Mr. Warunjikar, the learned Counsel for the Petitioners submitted that Mr. Mohammed Iqbal Hanfi is ready and willing to appear before the concerned Magistrate for recording his statement under Section 164 of Cr.P.C. on a given date and at the same time the statement of Mr. Subhash Watare who was not available at the relevant time should also be recorded. The Petitioners have also strong apprehension about the role being played by Dilip S. Chougule, Police Inspector.

4. Having noted that the charge-sheet has already been submitted on 16th November 2005 for the offences punishable under Sections 302, 201, 120B r.w. Section 34 of Indian Penal Code against 7 accused persons, we are not impressed that there is a need to handover the

investigation to another State machinery namely the C.I.D. However, it would be appropriate that the statements of Mr. Subhash Watare who had been to Shikharji for 'Devdarshan' at the relevant time and Mr. Mohammed Iqbal Hanfi are recorded under Section 164 of Cr.P.C. if they appear before the concerned Magistrate.

5. We therefore, dispose off this Petition with the directions that the statements of Subhash Watare and Mohammed Iqbal Hanfi shall be recorded under Section 164 of the Cr.P.C. The D.S.P. Sangli to take appropriate steps to take the absconding accused in custody at the earliest. Trial expedited.

6. Mr.Warunjikar undertakes that these two persons will appear before the Chief Judicial Magistrate at Sangli on any day between 8 to 15th February, 2006 between 11.00 a.m. to 5.00 p.m. and in turn the Chief Judicial Magistrate shall direct the Magistrate concerned to record their statements under Section 164 of Cr.P.C. regarding the incident of Mayuri Jain's death that took place on 15th May 2005 in Appoorva Sagar Maharaj Aashram at Dhamni, District Sangli and the Petitioners undertake to give written intimation to the Superintendent of Police Sangli one day in advance regarding appearance of these two persons before the Chief Judicial Magistrate.

(ROSHAN DALVI,J.) (B.H.MARLAPALLE, J.)